

## **DECISION**

### **Dispute Codes:**

**AS, ERP, RP, MNDC, FF**

### **Introduction**

This hearing was scheduled in response to the tenant's Application for Dispute Resolution, in which the tenants have made application for an Order allowing the tenant to sublet; that the landlord make emergency repairs, that the landlord make repairs to the unit, for compensation for damage or loss under the Act and to recover the filing fee from the landlord for the cost of this Application for Dispute Resolution.

The tenants provided affirmed testimony that on 13, 2010, copies of the Application for Dispute Resolution and Notice of Hearing were sent to the landlord by registered mail. The tenants provide a tracking number as evidence of service. The tenants checked the Canada Post web site and established that the Notice had been received by the landlord.

On July 9, 2010, the tenants sent the landlord an evidence package by registered mail. This package was returned by Canada Post and had been refused by the landlord. A tracking number was provided as evidence.

Section 90 of the Act determines that registered mail is deemed served on the fifth day after mailing. These documents are deemed to have been served in accordance with section 89 of the Act; however the landlord did not appear at the hearing.

### **Preliminary Matter**

On June 30, 2010, tenants have moved out of the rental unit; therefore the portion of their claim in relation to repairs and sublet was not heard.

The tenants would like return of their deposit, but this Application has not included a claim for return of the deposit paid. The tenants are at liberty to submit an Application claiming return of the deposit.

### **Issue(s) to be Decided**

Are the tenants entitled to compensation for damage or loss under the Act?

Are the tenants entitled to filing fee costs?

### Background and Evidence

The tenancy commenced on February 1, 2010. When the tenants arrived to take possession of the unit the previous occupants were still moving out. Once the tenants obtained possession of the unit, later that day, they found it was dirty and had not been cleaned. A move-in condition inspection was not completed.

The tenants went to the landlord's rental unit and the landlord's spouse came and spent a very short period of time cleaning in the unit. The tenants then called the landlord to complain about the state of the unit. The landlord told the tenants he would compensate them for the cleaning they had to complete and later offered them 1 hour compensation; although a dollar amount was not offered.

The tenants submitted letters from 4 individuals who were either present on the moving day or the next day. All of these letters indicated that the rental unit was dirty. The letters also confirm that the landlord did come to the rental unit and that he became angry with the tenants. The landlord did agree that the unit required some work and that the tenants would be paid for time spent cleaning.

The tenants are claiming compensation in the sum of \$160.00 for 8 hours of cleaning they completed with the assistance of their friends.

### Analysis

In the absence of evidence to the contrary, and in the absence of the landlord, I find that the rental unit was not reasonably clean at the start of the tenancy and that the tenants are entitled to compensation in the sum of \$160.00 for cleaning costs. The Act requires tenants to leave a rental unit in a reasonably clean state and they have a right to expect to move into a unit which does not require cleaning.

The absence of a move-in condition inspection, as required by section 23 of the Act, created a void, where the parties could have agreed or disagreed to the state of the unit. A landlord must offer tenants at least 2 opportunities to complete an inspection report and there is no evidence before me that occurred.

I find that the tenant's Application has merit, and I find that the tenants are entitled to recover the filing fee from the landlord for the cost of this Application for Dispute Resolution.

### Conclusion

I find that the tenants have established a monetary claim, in the amount of \$210.00, which is comprised of \$160.00 in cleaning costs and \$50.00 in compensation for the filing fee paid by the tenants for this Application for Dispute Resolution.

Based on these determinations I grant the tenants a monetary Order in the sum of \$210.00. In the event that the landlord does not comply with this Order, it may be served on the landlord, filed with the Province of British Columbia Small Claims Court and enforced as an Order of that Court.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: July 30, 2010.

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Dispute Resolution Officer